

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 90-588-G - ORDER NO. 95-1562✓  
SEPTEMBER 27, 1995

IN RE: South Carolina Pipeline Corporation -        )  
      Maximum Rates for Industrial Customers        )  
  )  
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  )

ORDER  
DENYING  
MOTION TO  
STRIKE

This matter comes before the Public Service Commission of South Carolina (the Commission) on the September 18, 1995 Motion to Strike filed by South Carolina Pipeline Corporation (SCPC or Pipeline). The Motion moves to strike certain testimony of Richard L. Smith, the Staff witness pre-filed in this Docket. The language proposed to be struck is at page 10, line 22 through page 11, line 4 of his testimony, and reads as follows:

The Commission might consider using the rate of return of the total Company and the customer classes as one possible means to monitor the outcomes of the existing price cap mechanism. The Staff does not recommend that the rate of return be the only means used to monitor the impacts and is not recommending that the rate of return be utilized in any way other than as a possible monitoring device.

On September 26, 1995, the Commission Staff filed a Return to the Motion. The Motion quoted Commission Order No. 94-1244 which stated that "As noted previously, the Commission will not consider evidence on the issues of rate of return nor cost of service in setting the maximum rates for industrial customers." See Order

Nos. 94-1244, 90-729, and 95-78.

The Return filed by the Commission Staff argued that the language in Smith's testimony does not constitute evidence on issues of rate of return nor cost of service in setting maximum rates for industrial customers. The Staff argues that Smith merely suggests the possible use of rate of return to monitor the existing price cap mechanism. Accordingly, the Commission Staff stated its belief that the proposal by Smith does not violate the Commission Orders in this matter. Staff also argued that the language in the testimony was consistent with the case of Nucor Steel v. The Public Service Commission of South Carolina, et al., Opinion No. 23983, filed January 10, 1994.

The Commission has examined this matter and believes that the Motion to Strike should be denied. An examination of the language in the testimony reveals that as Staff has argued, Smith makes a mere recommendation that the Commission might consider using the rate of return of the total Company and the customer classes as a possible means to monitor outcomes of existing price cap mechanisms. We hold that this is not the rate of return testimony prohibited by the various Commission Orders as stated above. Smith makes no recommendations as to an appropriate rate of return, nor does he propose data for consideration by the Commission to arrive at an appropriate rate of return. Smith's language simply does not fit the rate of return testimony prohibited by Commission Order No. 94-1244 as quoted above. The Motion to Strike is therefore denied.

This Order shall remain in full force and effect until further  
Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)